

1 IN THE UNITED STATES DISTRICT COURT FOR THE  
 2 NORTHERN DISTRICT OF OKLAHOMA  
 3  
 4

5 W. A. DREW EDMONDSON, in his )  
 6 capacity as ATTORNEY GENERAL )  
 7 OF THE STATE OF OKLAHOMA and )  
 8 OKLAHOMA SECRETARY OF THE )  
 9 ENVIRONMENT C. MILES TOLBERT,) )  
 10 in his capacity as the )  
 11 TRUSTEE FOR NATURAL RESOURCES) )  
 12 FOR THE STATE OF OKLAHOMA, )

13 Plaintiff, )

14 vs. )

4:05-CV-00329-TCK-SAJ

15 TYSON FOODS, INC., et al, )

16 Defendants. )

17 - - - - -

18 THE VIDEOTAPED DEPOSITION OF  
 19 DARREN BROWN, produced as a witness on behalf of  
 20 the Defendants in the above styled and numbered  
 21 cause, taken on the 26th day of August, 2008, in the  
 22 City of Tulsa, County of Tulsa, State of Oklahoma,  
 23 before me, Lisa A. Steinmeyer, a Certified Shorthand  
 24 Reporter, duly certified under and by virtue of the  
 25 laws of the State of Oklahoma.

**TULSA FREELANCE REPORTERS**  
**918-587-2878**

**EXHIBIT**

***E***

1 not removed by the growers, it becomes incorporated  
2 into the soil over time and so, therefore, even the  
3 material that is represented on the surface is  
4 available to be incorporated into those soils over  
5 time.

03:19PM

6 Q All right. Is that -- sir, will it be your  
7 sworn testimony at trial that this sampling  
8 procedure, it is acceptable to take a soil sample  
9 through a surface pile of cow manure; that will be  
10 your testimony?

03:19PM

11 MR. BLAKEMORE: Object to form.

12 A My testimony is that it was not desired that  
13 that happen, but that other procedures in place  
14 would have eliminated or reduced that impact to  
15 where it would not be detectable in the analytical  
16 results.

03:20PM

17 Q What procedure?

18 A Two procedures, the first being that prior to  
19 the insertion of the zero to two-inch interval into  
20 the sample bag, the loose material that was on the  
21 surface that could not be removed prior to the  
22 sample collection was segregated and not included to  
23 the extent possible in the bag. The second  
24 procedure was that once that material reached the  
25 lab, each bag was treated individually by the

03:20PM

03:20PM

1 laboratory technicians and the soil was dried out  
2 and all loose and organic material that was  
3 remaining -- I should say all loose organic material  
4 that was remaining in that soil sample was  
5 segregated prior to the grinding and sieving  
6 process. So those two steps alone would have  
7 eliminated any measurable impact that we would have  
8 been able to see in the soil.

03:21PM

9 Q How can you make the statement it would  
10 eliminate any measurable impact? Tell me the  
11 analysis you performed that would support that  
12 statement.

03:21PM

13 A With respect to the inorganics, it's a simple  
14 mass balance assessment. With respect to the  
15 organics, the soil samples were allowed to dry  
16 before they were ground and, therefore, the presence  
17 of -- that drying property would have not been very  
18 conducive for the continued growth of any organisms  
19 during the draining process.

03:21PM

20 Q You all haven't gone out and driven a soil  
21 sampling core through a cow pie and tested a soil  
22 sample to see what difference it made; you're giving  
23 me a theoretical answer, not one that's been tested  
24 and proven in the laboratory; correct?

03:22PM

25 A Not as you stated it, no.

03:22PM